

104TH CONGRESS  
2D SESSION

# S. 1737

To protect Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River and the Absaroka-Beartooth National Wilderness Area, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 8, 1996

Mr. BUMPERS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To protect Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River and the Absaroka-Beartooth National Wilderness Area, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*

2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Yellowstone Protection

5       Act of 1996”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds that—

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1                         (1) the superlative natural and scenic resources  
2                         of the Yellowstone area led Congress in 1872 to es-  
3                         tablish Yellowstone National Park as the world's  
4                         first national park;

5                         (2) a 20.5 mile segment of the Clarks Fork of  
6                         the Yellowstone River was designated in 1990 as a  
7                         component of the National Wild and Scenic Rivers  
8                         system, the only such designation within the State of  
9                         Wyoming, in order to preserve and enhance the nat-  
10                         ural, scenic, and recreational resources of such seg-  
11                         ment;

12                         (3) the Absaroka-Beartooth National Wilder-  
13                         ness Area was designated in 1978 to protect the wil-  
14                         derness and ecological values of certain lands north  
15                         and east of Yellowstone National Park;

16                         (4) in recognition of its natural resource values  
17                         and international significance, Yellowstone National  
18                         Park was designated a World Heritage Site in 1978;

19                         (5) past and ongoing mining practices have de-  
20                         graded the resource values of Henderson Mountain  
21                         and adjacent lands upstream of Yellowstone Na-  
22                         tional Park, the Absaroka-Beartooth National Wil-  
23                         derness Area and the Clarks Fork of the Yellow-  
24                         stone National Wild and Scenic River, and acid mine  
25                         pollution and heavy metal contamination caused by

1 such practices have polluted the headwater sources  
2 of Soda Butte Creek and the Lamar River, the  
3 Clarks Fork of the Yellowstone River and the Still-  
4 water River;

5 (6) on September 1, 1995 approximately  
6 19,100 acres of Federal land upstream of Yellow-  
7 stone National Park, the Clarks Fork of the Yellow-  
8 stone National Wild and Scenic River and the Absa-  
9 roka-Beartooth National Wilderness Area were seg-  
10 regated from entry under the general mining laws  
11 for a two-year period, in order to protect the water-  
12 sheds within the drainages of the Clarks Fork of the  
13 Yellowstone River, Soda Butte Creek and the Still-  
14 water River and to protect the water quality and  
15 fresh water fishery resources within Yellowstone Na-  
16 tional Park;

17 (7) because of proposed mineral development  
18 upstream of Yellowstone National Park, and other  
19 reasons, the World Heritage Committee added Yel-  
20 lowstone National Park to the "List of World Herit-  
21 age in Danger" in December, 1995; and

22 (8) proposed mining activities in the area  
23 present a clear and present danger to the resource  
24 values of the area as well as those of Yellowstone  
25 National Park, the Clarks Fork of the Yellowstone

1        National Wild and Scenic River and the Absaroka-  
2        Beartooth National Wilderness Area, and it is,  
3        therefore, in the public interest to protect these  
4        lands and rivers from such mining activities.

5    **SEC. 3. PURPOSE.**

6        The purpose of the Act is to make permanent the  
7        present temporary segregation of lands upstream of Yel-  
8        lowstone National Park, Absaroka-Beartooth National  
9        Wilderness Area and the Clarks Fork of the Yellowstone  
10       National Wild and Scenic River from entry under the gen-  
11       eral mining laws, restrict the use of certain Federal lands,  
12       and to provide assurance that the exercise of valid existing  
13       mineral rights does not threaten the water quality, fish-  
14       eries and other resource values of this area.

15    **SEC. 4. AREA INCLUDED.**

16       The area affected by this Act shall be comprised of  
17       approximately 24,000 acres of lands and interests in lands  
18       within the Gallatin and Custer National Forests as gen-  
19       erally depicted on the map entitled "Yellowstone Protec-  
20       tion Act of 1996". The map shall be on file and available  
21       for public inspection in the offices of the Chief of the For-  
22       est Service, Department of Agriculture, Washington, D.C.

23    **SEC. 5. MINERALS AND MINING.**

24       (a) WITHDRAWAL.—After enactment of this Act, and  
25       subject to valid existing rights, the lands segregated from

1 entry under the general mining laws pursuant to the order  
2 contained on page 45732 of the Federal Register (Septem-  
3 ber 1, 1995) shall not be—

4                 (1) open to location of mining claims under the  
5 general mining laws of the United States;

6                 (2) available for leasing under the mineral leas-  
7 ing and geothermal leasing laws of the United  
8 States; and

9                 (3) available for disposal of mineral materials  
10 under the Act of July 31, 1947, commonly known as  
11 the Material Act of 1947 (30 U.S.C. 601 et seq.).

12                 (b) LIMITATION ON PATENT ISSUANCE.—Subject to  
13 valid existing rights, no patents under the general mining  
14 laws shall be issued for any claim located in the area de-  
15 scribed in section 4.

16                 (c) PROHIBITION.—(1) Subject to valid existing  
17 rights, no Federal lands within the area described in sec-  
18 tion 4 may be used in connection with any mining related  
19 activity, except for reclamation.

20                 (2) Subject to valid existing rights, no Federal de-  
21 partment or agency shall assist by loan, grant, license, or  
22 otherwise in the development or construction of cyanide  
23 heap- or vat-leach facilities, dams, or other impoundment  
24 structures for the storage of mine tailings, work camps,  
25 powerplants, electrical transmission lines, gravel or rock

1 borrow pits or mills within the area described in section  
2 4. However, nothing in this section shall limit reclamation.

3 (d) RECLAMATION.—Any mining or mining related  
4 activities occurring in the area described in section 4 shall  
5 be subject to operation and reclamation requirements es-  
6 tablished by the Secretary of Agriculture, including re-  
7 quirements for reasonable reclamation of disturbed lands  
8 to a visual and hydrological condition as close as practical  
9 to their premining condition.

10 (e) MINING CLAIM VALIDITY REVIEWS.—The Sec-  
11 retary of the Interior, in consultation with the Secretary  
12 of Agriculture, shall complete within three years of the  
13 date of enactment of this Act, a review of the validity of  
14 all claims under the general mining laws within the area  
15 described in section 4. If a claim is determined to be in-  
16 valid, the claim shall be immediately declared null and  
17 void.

18 (f) PLANS OF OPERATION.—(1) The Secretary of Ag-  
19 riculture shall not approve a plan of operation for mining  
20 activities within the area described in section 4 that  
21 threatens to pollute groundwater or surface water flowing  
22 into Yellowstone National Park, the Clarks Fork of the  
23 Yellowstone National Wild and Scenic River or the Absa-  
24 roka-Beartooth National Wilderness Area.

1       (2) Prior to granting an order approving a plan of  
2 operations for mining activities within the area described  
3 in section 4, the Secretary of Agriculture shall transmit  
4 the proposed plan of operation to the Secretary of the In-  
5 terior and the Administrator of the Environmental Protec-  
6 tion Agency, and the Governors of Montana and Wyoming.

7       (3) Within 90 days of the date on which the proposed  
8 plan of operations is submitted for their review, the Sec-  
9 retary of the Interior and the Administrator of the Envi-  
10 ronmental Protection Agency shall either: (i) certify that  
11 the proposed plan of operation does not threaten to pollute  
12 groundwater or surface water flowing into Yellowstone  
13 National Park, the Clarks Fork of the Yellowstone Na-  
14 tional Wild and Scenic River or the Absaroka-Beartooth  
15 National Wilderness Area, or (ii) make recommendations  
16 for any actions or conditions that would be necessary to  
17 obtain their certification that the proposed plan of oper-  
18 ation will not threaten such pollution.

19       (4) The Secretary of Agriculture shall not approve  
20 a plan of operation unless: (i) the Secretary of the Interior  
21 and the Administrator of the Environmental Protection  
22 Agency provide the certification under subsection (f)(3) of  
23 this section, or (ii) the plan of operation is modified to  
24 adopt the recommendations made by them, and (iii) any

1 comments submitted by the Governors of Montana and  
2 Wyoming are taken into account.

3 (5) The Secretary of Agriculture shall not approve  
4 a plan of operation for any mining activities within the  
5 area described in section 4 that requires the perpetual  
6 treatment of acid mine pollution of surface or groundwater  
7 resources.

8 (6) Prior to executing a final approval of the plan  
9 of operation, the Secretary of Agriculture shall transmit  
10 the proposed final plan to the President and Congress.  
11 The President and Congress shall have 6 months from the  
12 date of submittal to consider and review the final plan of  
13 operation, before the Secretary of Agriculture may execute  
14 any final approval of such plan.

